

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JAMES RONALD CUNYUS
TX-1324221-R

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DOCKETED COMPLAINT NO. 07-151

AGREED FINAL ORDER

On this the 17th day of OCTOBER, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of James Ronald Cunyus (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

In order to conclude this matter, James Ronald Cunyus, neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent, James Ronald Cunyus, is a Texas state certified residential real estate appraiser, holds certification number TX-1324221-R, and has been certified or licensed by the Board during all times material to the above-noted complaint case.
2. On or about February 9th, 2006 and June 21st, 2006, Respondent appraised real property located at 6529 Village Springs Drive, Plano, Texas 75024 ("the property").
3. On or about May 31st, 2007, the Complainant, Gloria Shoats, filed a complaint with the Board. The complaint alleged that the appraisal misrepresented the true value of the of subject property.
4. On or about October 1st, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal reports for the property.

- a) Respondent failed to identify and report the site description adequately, including zoning and incorrectly reporting the county in which the property is located;
- b) Respondent failed to identify, analyze and report the effect on use and value of existing market area trend;
- c) Respondent misapplied the theory and method of extraction to determine site value and incorrectly stated the effect date of the cost data;
- d) Respondent failed to identify the method used to calculate physical depreciation;
- e) Respondent used inappropriate methods or techniques in his sales comparison approach analysis and failed to identify, analyze and report comparable sales data adequately by not selecting the most recent physically similar and proximate comparable sales;
- f) Respondent failed to include a sales contract in the work file, failed to disclose what efforts were made to secure a copy of the sales contract, and failed to report a prior sale of the property;
- g) Respondent failed to reconcile the cost approach properly with support for the site value, and no support for estimated depreciation; and
- h) Respondent's report contained substantial errors of commission or omission as noted above.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii), 1-2(e)(iv) & 2-2(b)(ix), 1-3(a) & 2-2(b)(ix), 1-4(b)(i) & 2-2(b)(ix), 1-4(b)(iii) & 2-2(b)(ix), 1-1(a) & 1-4(b), 1-4(a) & 2-2(b)(ix), 1-1(a) & 1-4(a), 1-6(a) & (b) & 2-2(b)(ix), 1-5(a) & 2-2(b)(ix), 1-5(b) & 2-2(b)(ix), 1-1(a) 1-1(b), 1-1(c) and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omissions of material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;

- b. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing and Case Studies;
- c. Pay to the Board an administrative penalty of \$400.00; and,
- d. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 15 day of OCTOBER, 2008.


JAMES RONALD CUNYUS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15 day of October, 2008, by JAMES RONALD CUNYUS, to certify which, witness my hand and official seal.

Dianna Barefoot
Notary Public Signature

Dianna Barefoot
Notary Public's Printed Name



Signed by the Commissioner this 17th day of OCTOBER, 2008.

Timothy K. Irvine
Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17th day of OCTOBER, 2008.

Clinton P. Sayers
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board